

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	
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BERNARD L. MADOFF INVESTMENT	:	SIPA LIQUIDATION
SECURITIES LLC,	:	
	:	No. 08-01789 (SMB)
Debtor.	:	
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	X	
IRVING H. PICARD, Trustee for the Liquidation	:	
of Bernard L. Madoff Investment Securities LLC,	:	
	:	
Plaintiff,	:	
v.	:	Adv. Proc. No. 09-01182 (SMB)
	:	
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:	
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:	
ASCOT FUND LTD., GABRIEL CAPITAL	:	
CORPORATION,	:	
	:	
Defendants.	:	
	:	
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**NOTICE OF MOTION *IN LIMINE* BY DEFENDANTS TO EXCLUDE THE  
TESTIMONY AND EXHIBITS RELATED TO WHETHER  
INVESTORS WERE MISLED WITH RESPECT TO  
GABRIEL CAPITAL, L.P. AND ARIEL FUND LTD.'S EXPOSURE TO BLMIS**

**PLEASE TAKE NOTICE** that, pursuant to Federal Rules of Evidence 401, 403, and 404(a)(1), made applicable to this proceeding by Rule 9017 of the Federal Rules of Bankruptcy Procedure, and upon the accompanying Declaration of Mariel R. Bronen, dated April 7, 2017, and all attached exhibits, and the accompanying Memorandum of Law, Defendants J. Ezra Merkin, Gabriel Capital Corporation, Ascot Partners, L.P., and Ascot Fund Limited will move before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge for the Southern District of New York, at the United States Bankruptcy Courthouse, One Bowling Green, New

York, New York, 10004-1408, at a date and time to be determined by the Court, for an Order excluding the proposed testimony and exhibits related to investors' supposedly being misled about Gabriel Capital, L.P.'s and Ariel Fund Ltd.'s investments in managed accounts with Bernard L. Madoff Investment Securities LLC, and for such other relief as the Court deems just and proper.

**NOTICE IS FURTHER GIVEN** that the Trustee's response to this Motion, if any, shall be filed with the Bankruptcy Court and served on counsel for Defendants no later than May 10, 2017.

**DECHERT LLP**

New York, New York  
April 7, 2017

By: /s/ Neil A. Steiner  
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